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Naval Surface Warfare Center Crane Contracts
Awarded Without Competition Were
Adequately Justified

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Acronyms and Abbreviations

FAR	Federal Acquisition Regulations
FPDS-NG	Federal Procurement Data System – Next Generation
J&A	Justification and Approval
NSWC	Naval Surface Warfare Center
NMCARS	Navy Marine Corps Acquisition Regulation Supplement



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

April 24, 2012

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
NAVAL INSPECTOR GENERAL**

**SUBJECT: Naval Surface Warfare Center Crane Contracts Awarded Without
Competition Were Adequately Justified (Report No. DODIG-2012-077)**

We are providing this report for your information and use. This report is the fourth in a series of audit reports on DoD contracts awarded without competition. Naval Surface Warfare Center Crane contracting personnel adequately justified the use of other than full and open competition for all 27 contracts reviewed, valued at about \$168.6 million. Naval Surface Warfare Center Crane contracting and program personnel generally prepared and approved adequate sole-source justifications and approvals for other than full and open competition and generally documented compliance with additional Federal requirements to support those sole-source determinations. No written response to this report was required, and none was received. Therefore, we are publishing this report in final form.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9077 (DSN 664-9077).

Jacqueline L. Wicecarver
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Assistant Inspector General
Acquisition and Contract Management



Results in Brief: Naval Surface Warfare Center Crane Contracts Awarded Without Competition Were Adequately Justified

What We Did

Our audit objective was to determine whether DoD noncompetitive contract awards were properly justified as sole source. This report is the fourth in a series of reports on DoD contracts awarded without competition and includes contracts issued by the Naval Sea Systems Command Naval Surface Warfare Center (NSWC) Crane. We reviewed 27 noncompetitive contracts with an obligated value of about \$107 million that NSWC Crane contracting personnel awarded in FY 2009 and FY 2010.

Full and open competition is the preferred method for Federal agencies to award contracts. Section 2304, title 10, United States Code, and Section 253, title 41, United States Code require contracting officers to promote and provide for full and open competition when soliciting offers and awarding contracts. Contracting officers may use procedures other than full and open competition under certain circumstances. However, each contract awarded without providing for full and open competition must conform to policies and procedures in Federal Acquisition Regulation (FAR) Subpart 6.3, "Other Than Full and Open Competition."

What We Found

NSWC Crane contracting personnel adequately justified the use of other than full and open competition for all 27 contracts reviewed, with an obligated value of about \$107 million. NSWC Crane contracting and program personnel generally prepared and approved adequate sole-source justifications and approvals (J&As) for other than full and open competition and generally documented

compliance with additional FAR requirements to support those sole-source determinations for 27 contracts.

Specifically, NSWC Crane contracting and program personnel:

- generally included all required content elements in the J&As;
- appropriately applied the cited authority permitting other than full and open competition in the J&As;
- generally obtained approval from proper personnel within required time frames to issue noncompetitive contract awards;
- generally documented compliance with FAR Part 10, "Market Research," in the contract file; and
- generally complied with FAR Subpart 5.2, "Synopsis of Proposed Contract Actions," when synopsisizing actions that required a presolicitation notice, with the exception of including all required language in the presolicitation notice.

Management Comments

No written response to this report was required, and none was received. Therefore, we are publishing this report in final form.

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Introduction

Objective

Our objective was to determine whether noncompetitive contract awards were properly justified as sole source at Naval Sea System Command Naval Surface Warfare Center (NSWC) Crane, Indiana. This report is the fourth in a series of reports on DoD contracts awarded without competition. See Appendix A for the scope and methodology and prior coverage related to the objective.

Background

Section 2304, title 10, United States Code, and Section 253, title 41, United States Code require contracting officers to promote and provide for full and open competition when soliciting offers and awarding contracts. Promoting competition in Federal contracting presents the opportunity for significant cost savings. In addition, competitive contracts can help improve contractor performance, prevent fraud, and promote accountability. Contracting officers may use procedures other than full and open competition under certain circumstances. However, each contract awarded without providing for full and open competition must conform to policies and procedures in Federal Acquisition Regulation (FAR) Subpart 6.3, “Other Than Full and Open Competition.”

FAR subpart 6.3 prescribes the policies and procedures for contracting without full and open competition. FAR Part 10, “Market Research,” prescribes policies and procedures for conducting market research to arrive at the most suitable approach for acquiring, distributing, and supporting supplies and services. FAR Subpart 5.2 “Synopsis of Proposed Contract Actions,” establishes policy to ensure agencies make notices of proposed contract actions available to the public. Appendix B provides additional explanation on FAR subpart 6.3, FAR part 10, and FAR subpart 5.2 requirements.

Naval Surface Warfare Center Crane

NSWC operates the Navy’s full spectrum research, development, test and evaluation, engineering, and fleet support centers for offensive and defensive systems associated with surface warfare and related areas of joint, homeland, and national defense systems from the sea. The NSWC is located at eight sites. NSWC Crane oversees technical capabilities for the rapidly changing combat environment to support the warfighter. NSWC Crane specializes in total lifecycle support in three focus areas: Special Missions, Strategic Missions, and Electronic Warfare/Information Operations. NSWC Crane provides acquisition engineering, in-service engineering and technical support for sensors, electronics, electronic warfare, and special warfare weapons.

Contracts Reviewed at NSWC Crane

Our Federal Procurement Data System - Next Generation (FPDS-NG) queries identified that NSWC Crane contracting personnel awarded 110 noncompetitive C and D type contracts¹ during FY 2009 and FY 2010, with an obligated value² of \$286.7 million, that met the scope³ of our review. We selected a nonstatistical sample of 30 noncompetitive contracts with an obligated value of \$110.1 million to review.

We excluded three contracts from our initial sample because they were outside the scope of our audit. NSWC Crane contracting personnel cited FAR 6.302-6, “National Security,” as the exception to competition in the justification and approval (J&A) for other than full and open competition for two contract awards. Contracting personnel were not required to meet the requirements stated in FAR Part 6, “Competition Requirements,” for the third contract since the award was valued under the simplified acquisition threshold. We did not review contracts awarded citing the “National Security” exception or contract awards valued under the simplified acquisition threshold.

In total, we reviewed 27 contracts with an obligated value of about \$107 million (the combined base award, excluding options, was valued at approximately \$168.6 million). Of the 27 contracts we reviewed, the Government lacked the proprietary data, rights, or technical data packages required to compete 24 contracts. In many cases, NSWC Crane was procuring maintenance, repairs, spares, and/or upgrades to existing equipment or procuring additional components or equipment to maintain consistency in the fleet and ensure successful integration of components into equipment. See Appendix C for specific noncompetitive contract awards reviewed.

Review of Internal Controls at NSWC Crane

DoD Instruction 5010.40, “Managers’ Internal Control Program (MICP) Procedures,” July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. NSWC Crane’s internal controls over their processes for issuing the noncompetitive contract awards we reviewed were effective as they applied to the audit objective.

¹ Defense Federal Acquisition Regulation Supplement 204.7003, “Basic PII Number,” defines C type contracts as “Contracts of all types except indefinite delivery contracts, sales contracts, and contracts placed with or through other Government departments or agencies or against contracts placed by such departments or agencies outside the DoD,” and D type contracts as “Indefinite delivery contracts.”

² Data obtained in FPDS-NG is reported on an individual action basis (that is, single modification). As a result, we combined all actions identified for a given contract to determine the number of contracts awarded during FY 2009 and FY 2010 and their respective obligated amounts.

³ Our scope was limited to actions issued on contracts that were awarded during FY 2009 and FY 2010. Actions were coded as either a “noncompetitive delivery order” or “not competed” FPDS-NG and did not receive more than one offer as identified in FPDS-NG.

NSWC Crane Contract Awards Were Adequately Justified As Sole Source

NSWC Crane contracting personnel adequately justified the use of other than full and open competition on the J&As for other than full and open competition for all 27 contracts, with an obligated value of about \$107 million. NSWC Crane contracting personnel generally complied with FAR 6.303-2, “Content,” requirements in the J&As, appropriately applied the authority cited for permitting other than full and open competition for all 27 J&As, and generally obtained approval from the proper personnel within the required time frames. Further, NSWC Crane contracting and program personnel generally documented compliance with FAR Part 10, “Market Research,” and FAR Subpart 5.2, “Synopsis of Proposed Contract Actions,” in the contract files to support sole-source determinations, with the exception of including all required language in the presolicitation notice when synopsisizing actions that required a presolicitation notice.

NSWC Crane Adequately Supported Sole-Source Determinations

NSWC Crane contracting personnel adequately supported the use of other than full and open competition in the J&As for all 27 contracts. FAR 6.302, “Circumstances Permitting Other Than Full and Open Competition,” lists the seven exceptions permitting contracting without full and open competition. A contracting officer must not begin negotiations for a sole-source contract without providing full and open competition unless the contracting officer justifies the use of such action in writing, certifies the accuracy and completeness of the justification, and obtains approval of the justification. NSWC Crane contracting personnel did not always document all the required elements of FAR 6.303-2 in the J&As; however, personnel appropriately applied the exception to competition cited in the J&As to justify permitting other than full and open competition. NSWC Crane contracting personnel obtained approval from the proper official for each of the 27 J&As, obtained legal counsel’s review of all 27 J&As before submission to the approval authority, and obtained approval within the required time frames, with one exception.

NSWC Crane Generally Complied With J&A Content Requirements

NSWC Crane contracting personnel generally documented compliance with content requirements for the 27 J&As. Both FAR 6.303-2 and Navy Marine Corps Acquisition Regulation Supplement (NMCARS) 5206.303-2, “Content,” identify the minimum information that must be included in a J&A. NSWC Crane contracting personnel included all the required elements as outlined by FAR 6.303-2 and NMCARS 5206.303-2 in the J&As, with the exception of 4 of the 27 J&As reviewed. See Table 1 for the specific contracts that did not fully meet the J&A content requirements.

Table 1. J&As Missing Content Requirements

Requirement	N00164-09-C-JQ70	N00164-09-C-JQ56	N00164-10-C-WM22	N00164-09-D-JN11
FAR 6.303-2(b)(6)	√			
FAR 6.303-2(b)(8)		√		
FAR 6.303-2(b)(12)			√	
NMCARS 5206.303-2(a)(i)		√		
NMCARS 5206.303-2(a)(ii)		√	√	√

NSWC Crane contracting personnel included all the required elements as outlined by FAR 6.303-2 in the J&As, except for 3 of the 27 J&As reviewed. For contract N00164-09-C-JQ70, contracting personnel did not state in the J&A whether or not a notice was or will be publicized, and, if not, which exception under FAR 5.202, “Exceptions,” applied, as required by FAR 6.303-2(b)(6). NSWC Crane contracting personnel did not state in the J&A for contract N00164-09-C-JQ56 what market research was conducted, the results of any market research conducted, or a statement why market research was not conducted, as required by FAR 6.303-2(b)(8). For contract N00164-10-C-WM22, contracting personnel did not include in the J&A the contracting officer’s certification that the justification was accurate and complete to the best of the contracting officer’s knowledge and belief, as required by FAR 6.303-2(b)(12). NSWC Crane contracting personnel did not meet the previously discussed FAR content requirements, but only once did contracting personnel not provide sufficient support for each of the three requirements. We do not consider this to be a systemic problem at NSWC Crane and therefore are not making a recommendation.

NSWC Crane contracting personnel included all the required elements as outlined by NMCARS 5206.303-2 in the J&As, except for 3 of the 27 J&As reviewed. NMCARS requires that a justification also include the period of performance for the proposed acquisition, the total estimated dollar value identified by fiscal year and appropriation, and an explanation of actions attempted to make the immediate acquisition competitive and the cost/benefit analysis associated with obtaining competition. For contract N00164-09-C-JQ56, contracting personnel did not include the period of performance in the J&A, as required by NMCARS 5206.303-2(a)(i). NSWC Crane contracting personnel did not identify the appropriations in the J&A for contract N00164-10-C-WM22, as required by NMCARS 5206.303-2(a)(ii). For contracts N00164-09-D-JN11 and N00164-09-C-JQ56, contracting personnel did not identify the fiscal year or the appropriation in the J&As, as required by NMCARS 5206.303-2(a)(ii). NSWC Crane contracting personnel did not meet all of the NMCARS content requirements for only three J&As; therefore, we do not consider this to be a systemic problem at NSWC Crane and are not making a recommendation.

NSWC Crane Appropriately Applied the Sole-Source Authority Cited

NSWC Crane contracting personnel appropriately applied the cited authority permitting other than full and open competition in each of the 27 J&As reviewed. NSWC Crane contracting personnel awarded 21 contracts that cited the authority of FAR 6.302-1, “Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.” NSWC Crane contracting personnel awarded one contract that cited the authority of FAR 6.302-2, “Unusual and Compelling Urgency.” Contracting personnel awarded five contracts that cited both authorities. NSWC Crane contracting personnel explained that some J&As would provide two exceptions to full and open competition when unusual and compelling urgency was cited. Contracting personnel would also cite and justify only one responsible source in the J&A if only one source could meet the requirements since competition is still expected to the maximum extent possible for the unusual and compelling urgency exception.

For the 26 contracts citing FAR 6.302-1, NSWC Crane contracting personnel provided adequate rationale in the J&A to support why only one contractor could provide the required product or service and why only that product or service could meet the Government’s requirements. Of the 27 contracts we reviewed, the Government lacked the proprietary data, rights, or technical data packages required to compete 24 contracts. For example, contract N00164-10-C-JQ84 procured Target Sight Systems used on the United States Marine Corps AH-1Z attack helicopter. The J&A explained that if another target sight system was used, significant delays would occur due to modifications required to integrate the system to the aircraft and developmental and operational testing. Although NSWC Crane contracting personnel issued 9 of the 27 contracts for commercial procurements, lack of the rights to technical data and the need for successful integration led to the award of sole-source contracts. The *DoD’s Competition Report for Fiscal Year 2009* and the *DoD’s Competition Report for Fiscal Year 2010* both listed proprietary rights on items developed at private expense and lack of good technical data packages as barriers to competition.

For the six contracts citing FAR 6.302-2, NSWC Crane contracting personnel provided adequate rationale in the J&A to support the unusual and compelling urgency of the acquisition. FAR 6.302-2(c) and (d) impose further restrictions on contract awards citing this authority. Contracting personnel are required by FAR 6.302-2(c) to request offers from as many potential sources as practicable. For the six contracts, NSWC Crane personnel provided adequate rationale in the J&A that supported why only one contractor and only one product or service could meet the Government’s requirements. Contracting personnel are required by FAR 6.302-2(d) to limit the period of performance of the contract. NSWC Crane contracting personnel listed in the J&A a total period of performance that did not exceed the time limitations established in the FAR for the six contracts.

NSWC Crane Obtained Approval From Proper Personnel Within Required Time Frames for Sole-Source Contracts

NSWC Crane contracting personnel obtained approval from the proper personnel for all 27 J&As and obtained legal counsel's review for all 27 J&As before submission to the approval authority. FAR 6.304 defines the proper approval authority at various thresholds for the estimated dollar value including options. Between FY 2009 and FY 2010, the FAR authorized the procuring contracting officer to provide the final approval for proposed contract actions up to \$550,000 and the competition advocate of the procuring activity to provide the final approval for proposed contract actions more than \$550,000 but not exceeding \$11.5 million. The FAR authorized the general or flag officer, if a member of the military, or a civilian in a position above GS-15 under the General Schedule, to provide the final approval for proposed contract actions more than \$11.5 million but not exceeding \$78.5 million. The FAR authorized the senior procurement executive of the agency to provide the final approval for proposed contract actions exceeding \$78.5 million. NSWC Crane contracting personnel obtained approval from the proper officials for all 27 J&As reviewed. NSWC Crane contracting personnel obtained approval from the contracting officer for 3 J&As and from the NSWC Crane Competition Advocate for 21 J&As. Contracting personnel also obtained approval from the appropriate officials for two J&As valued more than \$11.5 million but not exceeding \$78.5 million and for one J&A exceeding \$78.5 million. NSWC Crane Legal Counsel reviewed each of the 27 J&As for legal sufficiency before submission to the approval authority for review and signature, as required by NMCARS 5206.303-90, "Legal Reviews."

NSWC Crane contracting personnel obtained approval for the J&As in the time frames required for 26 of the 27 J&As. In the remaining instance, contracting personnel obtained approval for contract N00164-09-C-JQ56 from the proper authority, but not until after the contract was awarded. NSWC Crane contracting personnel awarded the contract to provide a bridge contract to continue needed services until a competitive contract could be awarded. In a discussion with a NSWC Crane contracting official, the contracting official stated that contracting personnel could have better planned the acquisition to obtain the required approval before the holiday vacations and the award of the contract. FAR 6.303-1(e) states that J&As for contracts awarded citing the authority of FAR 6.302-2 may be approved within a reasonable time after contract award when preparation and approval prior to award would unreasonably delay the acquisitions. The J&A cited FAR 6.302-1, which did not apply to this exception for approval after award. We do not consider this to be a systemic problem and therefore are not making a recommendation.

NSWC Crane Personnel Generally Complied With Additional Regulations That Supported Sole-Source Determinations

NSWC Crane contracting and program personnel generally documented the market research efforts and included adequate documentation in the contract files to support FAR part 10 and FAR subpart 5.2 requirements. NSWC Crane contracting personnel provided

sufficient information in the contract files to determine the specific steps NSWC Crane contracting and program personnel took to conduct market research and the results. In addition, NSWC Crane contracting personnel included adequate documentation to support that the proposed contract actions were properly synopsisized in the Governmentwide Point of Entry, which is accessed on the Internet at <http://www.fedbizopps.gov>, with the exception of including the required language outlined in FAR 5.207(c)(14) and FAR 5.207(c)(15)⁴ in the synopses. NSWC Crane contracting and program personnel generally complied with FAR part 10 and FAR subpart 5.2 requirements to support NSWC Crane sole-source determinations.

NSWC Crane Generally Documented the Market Research Efforts and the Results

NSWC Crane contracting and program personnel generally documented the market research conducted or provided adequate justification in the contract file when market research was not conducted for 26 of the 27 contracts reviewed. Contracting personnel included documentation to show compliance with FAR part 10 in the contract file⁵ to support 26 of the 27 sole-source determinations. FAR part 10 states that agencies should document the results of market research in a manner appropriate to the size and complexity of the acquisition. FAR 10.002, "Procedures," states the extent of market research will vary, depending on factors such as urgency, estimated dollar value, complexity, and past experience. NSWC Crane contracting and program personnel performed market research techniques identified in FAR part 10 for 24 of the 26 contract awards that had adequate support documented in the contract file. For example, NSWC Crane contracting and program personnel conducted internet and database inquiries, contacted knowledgeable individuals in Government and industry, or reviewed past procurements for the 24 sole-source awards that had estimated values ranging from \$336,000 to \$48.75 million. NSWC Crane contracting and program personnel documented the market research techniques performed and the subsequent results in each of the 24 contract files. See Appendix D for additional information on the market research NSWC Crane personnel conducted.

NSWC Crane contracting and program personnel did not conduct market research for 2 of the 27 contracts; however, contracting personnel provided adequate documentation in the contract file to support each sole-source determination. For example, NSWC Crane contracting and program personnel did not conduct market research for contract N00164-10-C-JT11 because procuring Stiletto masts with mast controls from any other company would have resulted in substantial delays and duplication of costs to the Government. The time delay and associated reverse engineering costs were not acceptable considering the compelling need for the systems. According to documentation

⁴ Effective May 31, 2011, the Federal Acquisition Regulation Circular contained updates that moved the requirements in FAR 5.207(c)(14) and FAR 5.207(c)(15) to FAR 5.207(c)(15) and FAR 5.207(c)(16), respectively.

⁵ We considered documentation sufficient to meet FAR part 10 requirements if the specific steps taken to conduct market research and the subsequent results were documented or adequate rationale for not conducting market research were documented.

in the contract file, program personnel estimated a 10-month delay to reverse engineer the product, costing about \$1.8 million. NSWC Crane contracting personnel cited an increased risk to warfighter casualties in a hostile area of operation in theater if the systems were not provided in a timely manner. Contracting personnel awarded the contract action under the conditions described in FAR 6.302-2, “Unusual and Compelling Urgency,” at an estimated value of \$367,740. NSWC Crane contracting personnel did not include documentation to show compliance with FAR part 10 in the contract file to support 1 of the 27 sole-source determinations, specifically contract N00164-09-C-JQ56.

Inadequate Documentation for Contract N00164-09-C-JQ56

NSWC Crane contracting personnel did not include adequate documentation in the contract file for contract N00164-09-C-JQ56 to support FAR part 10 requirements. NSWC Crane contracting and program personnel did not document the specific steps taken to conduct market research and the subsequent results or provide adequate rationale for not conducting market research in the J&A or elsewhere in the contract file. Although NSWC Crane contracting personnel did not document compliance with FAR part 10 in the contract file, contracting personnel appropriately cited, “only one responsible source,” as the exception to competition in the J&A. NSWC Crane contracting personnel awarded the contract for engineering, technical, and management support services in support of various products under the Airborne Electro-Optics Electronic Warfare Systems project. Contracting personnel stated in the J&A that the project would be interrupted if the required services were transferred to another contractor, increasing risk to the Navy by exposing armed forces to the possibility of loss of life. NSWC Crane contracting personnel explained that the contractor worked closely with the Government to develop products for the project that were in various life-cycle stages and could not be transferred to another contractor. This documentation omission did not result in an inadequate sole-source determination; therefore, we do not consider the problem to be systemic and are not making a recommendation.

Processes at NSWC Crane Facilitate Market Research Efforts

NSWC Crane officials have processes in place to help ensure that market research is conducted. According to the Small Business Deputy and Assistant Legal Counsel at NSWC Crane, training was provided at least twice a year that covered techniques used to conduct market research and the steps required to prepare a J&A. According to the Competition Advocate, NSWC Crane contracting officials conducted internal reviews twice a year on selected contracts to verify the quality and completeness of the documentation contained within the selected contract files.

NSWC Crane officials also implemented processes in the acquisition process to document market research efforts as outlined in their Acquisition Request Preparation Guide. The Acquisition Request Preparation Guide is a process and planning tool that provided the major steps of an acquisition and contained the suggested and required forms and checklists to be completed by both program and contracting personnel. For example, program personnel were required to complete a form that documented the market research techniques used. Program personnel documented market research techniques including identifying the Government or industry individuals contacted,

databases queried, catalogs reviewed, conferences attended, or any additional information relevant to market research, such as whether or not the Government owned any technical data. Contracting personnel were encouraged to complete a questionnaire that identified the standard business practices of a potential source, such as standard delivery terms and quantity discounts, as well as commercial practices and data rights ownership. However, the questionnaire did not have a place for contracting personnel to sign and date the document. In addition, NSWCrane officials required program and contracting personnel to complete separate checklists that documented specific actions taken throughout the procurement process. For example, each checklist required personnel to document the commerciality of the product, the extent of market research conducted, and the prior history reviewed to verify that all previous vendors have been solicited.

NSWC Crane Generally Complied With Synopsis Requirements

NSWC Crane contracting personnel complied with requirements when synopsisizing the 21 proposed contract actions that required a presolicitation notice, with the exception of including the required language outlined in FAR 5.207(c)(14) and FAR 5.207(c)(15).⁶ FAR 5.2, “Synopsis of Proposed Contract Actions,” requires contracting officers to transmit a notice to the Governmentwide Point of Entry for each proposed contract action expected to exceed \$25,000, other than those covered by an exception in FAR 5.202, “Exceptions.” The primary purposes of the notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities. NSWCrane contracting personnel included documentation in the contract file to support that the synopsis was posted to the Governmentwide Point of Entry, which detailed the notice of the proposed contract action, in each of the 21 contract files.

NSWC Crane contracting personnel did not synopsisize the proposed contract action for each of the six noncompetitive contract awards that cited FAR 6.302-2, “Unusual and Compelling Urgency,” as the exception to competition. In accordance with FAR 5.202(a)(2), 6 of the 27 contracts reviewed did not contain a synopsis. Contracting officers are exempted from issuing a synopsis under FAR 5.202(a)(2) when the proposed contract action is made under the conditions described in FAR 6.302-2, “Unusual and Compelling Urgency,” and the Government would be seriously injured if the agency complies with the publicizing and response times specified in the FAR.

NSWC Crane contracting personnel generally complied with the time frames as established in FAR subpart 5.2 for 20 of the 21 contracts that were synopsisized. Contracting personnel synopsisized 1 of the 21 contracts that did not comply with time frames as established in FAR subpart 5.2. FAR 5.203(a) states that the notice must be published at least 15 days before issuance of a solicitation or a proposed contract action that the Government intends to solicit and negotiate with only one source. NSWCrane contracting personnel did not provide the required 15-day response time when

⁶ Effective May 31, 2011, the Federal Acquisition Regulation Circular contained updates that moved the requirements in FAR 5.207(c)(14) and FAR 5.207(c)(15) to FAR 5.207(c)(15) and FAR 5.207(c)(16), respectively.

synopsizing contract N00164-09-C-JQ56. Only one contract did not meet the FAR subpart 5.2 time frames; therefore, we do not consider this to be a systemic problem at NSWC Crane and are not making a recommendation.

NSWC Crane contracting personnel generally included all applicable elements in the synopsis, except for including the required language outlined in FAR 5.207(c). NSWC Crane contracting personnel did not always indicate to potential sources why only one contractor could meet the needs of the Government because NSWC Crane contracting personnel did not include a statement in the synopsis that justified the lack of competition for 9 of the 21 contracts that were required to be synopsized. FAR 5.207(c)(14) requires the synopsis for noncompetitive contract actions to identify the intended source and provide a statement justifying the lack of competition. NSWC Crane contracting personnel documented the specific FAR clause that permits contracting without full and open competition in seven of the nine notices. However, they did not give an explanation as to why that clause applied to the procurement. We are not making a recommendation because NSWC Crane contracting personnel included support within each of the nine J&As to show that competition could not be reasonably anticipated.

NSWC Crane contracting personnel did not always encourage potential sources to answer the synopsis because contracting personnel did not include the language required by FAR 5.207(c)(15) for 7 of the 21 contract actions that were required to be synopsized. FAR 5.207(c)(15) requires the synopsis for noncompetitive contract actions to include a statement that all responsible sources may submit a capability statement, bid, proposal, or quotation, “which shall be considered by the agency.” We are not making a recommendation because NSWC Crane contracting personnel included support within each of the seven J&As to show that competition could not be reasonably anticipated. NSWC Crane contracting personnel generally included all applicable elements in the synopsis, with the exception of including the required language outlined in both FAR 5.207(c)(14) and FAR 5.207(c)(15) for three contract awards. See Table 2 for the nine contracts that did not comply with FAR 5.207(c)(14) and the seven contracts that did not comply with FAR 5.207(c)(15) requirements.

**Table 2. Contracts Not In Compliance With
FAR 5.207(c)(14) and FAR 5.207(c)(15) Requirements**

Contract	Synopsis did not include a statement justifying the lack of competition.	Synopsis did not indicate that all responsible parties may submit a capability statement, bid, proposal, or quotation which shall be considered by the agency.
N00164-10-C-JQ84	√	
N00164-09-D-JN11	√+	
N00164-09-D-JN50	√	√
N00164-10-C-GR44	√	√
N00164-09-C-JQ56	√+	√
N00164-10-D-GR49	√	
N00164-10-D-WM15	√	
N00164-09-D-GS16	√	
N00164-10-D-JS16	√	
N00164-09-D-JQ64		√
N00164-10-D-JN69		√
N00164-09-D-WS01		√
N00164-10-D-WS26		√

+Did not document the specific FAR clause that permits contracting without full and open competition.

Summary

NSWC Crane contracting personnel adequately justified the use of other than full and open competition on the J&As for all 27 contracts reviewed. NSWC Crane contracting personnel generally complied with FAR 6.303-2 requirements in the J&As, appropriately applied the authority cited for all 27 J&As and generally obtained approval from the proper personnel within the required time frames. Further, NSWC Crane contracting and program personnel generally documented compliance with FAR part 10 and FAR subpart 5.2 in the contract files to support sole-source determinations, with the exception of including all required language in the presolicitation notice when synopsisizing actions that required a presolicitation notice. We are not making recommendations because we do not consider the problems identified to be material.

Appendix A. Scope and Methodology

We conducted this performance audit from August 2011 through April 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our scope was limited to noncompetitive contract awards during FY 2009 and FY 2010 to determine whether Naval Sea Systems Command Naval Surface Warfare Center (NSWC) Crane, Indiana, noncompetitive contract awards were properly and adequately justified as sole-source. Our review was limited to the justification and approval (J&A) for other than full and open competition for the base contract award and supporting documentation within the contract file. We did not review contracts that were awarded for national security purposes, foreign military sales, classified contracts, or contracts that were improperly coded in the Federal Procurement Data System - Next Generation (FPDS-NG) as noncompetitive. In addition, we did not review contracts that were not truly sole source such as contracts that were competitive one bids or contracts set aside to develop small businesses.

In July 2011, DoD Office of Inspector General management decided the audit teams would issue site reports under individual subprojects from the initial project. In October 2011, we reannounced the revised audit approach of issuing separate audit reports for each audit site as well as the revised audit objective to determine whether DoD noncompetitive contract awards were properly justified as sole source. We removed the specific objective to determine whether negotiated amounts were fair and reasonable.

Universe and Sample Information

We used FPDS-NG to identify noncompetitive contract actions issued by Military Services and Defense agencies during FY 2009 and FY 2010. The queries were limited to actions issued on contracts that were awarded during FY 2009 and FY 2010 and coded as a “noncompetitive delivery order” or “not competed” in FPDS-NG. The queries also excluded contract actions that received more than one offer as identified in FPDS-NG. We selected the four DoD Components with the highest dollar value of awards, specifically, the Army, Navy, Air Force, and the Defense Logistics Agency to identify specific audit locations. We focused our site selection on three sites for the Department of the Navy that awarded 20 or more C and D type noncompetitive contracts and obligated approximately \$200 million or more during FY 2009 and FY 2010. Our site selection excluded sites that were visited during the review on noncompetitive contract awards for Government Accountability Office Report No. GAO-10-833, “Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer Is Received,” July 26, 2010. In addition, we reviewed reports the DoD Office of Inspector General,

Acquisition and Contract Management Directorate, issued from FY 2009 to April 2011 that covered acquisition and contracting procedures and excluded sites that have been visited on numerous occasions.

The initial data obtained from FPDS-NG resulted in a universe of 110 applicable contracts for NSWC Crane. We nonstatistically selected 30 of the 110 contracts by using many different factors including different dollar amounts, products, services, and contract types to create a diverse, nonstatistical sample. However, we did not review contracts within the 30 selected that were awarded for national security purposes, foreign military sales, classified contracts, or contracts that were improperly coded in the FPDS-NG as noncompetitive. In addition, we did not review contracts that were not truly sole source such as contracts that were competitive one bids or contracts set aside to develop small businesses. In total, we excluded 3 of the 30 contracts selected because they were outside the scope of our audit. NSWC Crane contracting personnel cited FAR 6.302-6, “National Security,” as the exception to competition in the J&A for two contracts. NSWC Crane contracting personnel were not required to meet the requirements stated in FAR Part 6, “Competition Requirements,” for the third contract since the award was valued under the simplified acquisition threshold. Based on these exclusions, we reviewed 27 of the 30 contracts requested. See Appendix C for additional details on the noncompetitive contracts reviewed.

Review of Documentation and Interviews

We evaluated documentation against applicable criteria including:

- FAR Subpart 5.2, “Synopsis of Proposed Contract Actions”;
- FAR Subpart 6.3, “Other Than Full and Open Competition”;
- FAR Part 10, “Market Research”;
- Defense Federal Acquisition Regulation Supplement, 204.7003, “Basic PII Number”; and
- NMCARS 5206.3, “Other Than Full and Open Competition.”

We interviewed contracting personnel at NSWC Crane, Indiana, to discuss noncompetitive contract awards and to obtain information regarding the noncompetitive contract files identified in our sample, specifically about the J&A, market research, and supporting documentation. We also interviewed the Competition Advocate, the Small Business Deputy, and Legal Counsel at NSWC Crane to gain an understanding of their responsibilities and roles in noncompetitive contract awards.

Use of Computer-Processed Data

We relied on computer-processed data from the FPDS-NG to establish the initial universe for this audit by identifying noncompetitive contract actions issued by Military Services and Defense agencies. We also used the data from the FPDS-NG to help determine the contracting organizations to visit and to perform the nonstatistical sample selection. In addition, we used the Electronic Document Access database to obtain contract documentation, such as the contract and modifications to the contract before our site visit to NSWC Crane. To assess the accuracy of the computer-processed data, we verified the

FPDS-NG and Electronic Document Access data against official records at NSWC Crane. We determined that data obtained through the Electronic Document Access database was sufficiently reliable to accomplish our audit objectives when compared with contract records. We determined that there was one miscoding in the data reviewed from FPDS-NG when compared with contract documentation; however, we used FPDS-NG only to identify the universe, to help determine the contracting organizations to visit, and to identify our nonstatistical sample.

Use of Technical Assistance

We held discussions with personnel from the Department of Defense Office of Inspector General's Quantitative Methods and Analysis Division. We determined that we would use FPDS-NG data to select a nonstatistical sample of contracting activities and then use FPDS-NG data to select a nonstatistical sample of noncompetitive contracts to review. During our site visit, we worked with NSWC Crane contracting personnel to verify that the selected contracts met the scope limitations of our review and to identify additional contracts that did not meet the selection criteria. Our nonstatistical sample was limited to specific contracts, and our results should not be projected across other NSWC-issued or Navy-issued contracts.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO), the Department of Defense Inspector General (DoD IG), and the Department of the Army have issued six reports discussing noncompetitive contract awards. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>. Unrestricted Army reports can be accessed from .mil and gao.gov domains over the Internet at <http://www.aaa.army.mil/>.

GAO

GAO Report No. GAO-12-263, "Improved Policies and Tools Could Help Increase Competition on DoD's National Security Exception Procurements," January 13, 2012

GAO Report No. GAO-10-833, "Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer Is Received," July 26, 2010

DOD IG

DOD IG Report No. DODIG-2012-076, "Army Contracting Command – Rock Island Contracts Awarded Without Competition Were Properly Justified," April 19, 2012

DOD IG Report No. DODIG-2012-073, "Natick Contracting Divisions' Management of Noncompetitive Awards Was Generally Justified," April 10, 2012

DOD IG Report No. DODIG-2012-042, "Naval Air Systems Command Lakehurst Contracts Awarded Without Competition Were Properly Justified," January 20, 2012

Army

Army Audit Agency Report No. A-2011-0002-ALC, "Extent of Competition in Army Contracting," October 12, 2010

Appendix B. Federal Acquisition Regulation Criteria

FAR Subpart 5.2, “Synopsis of Proposed Contract Actions”

FAR 5.201, “General,” requires agencies to provide a synopsis of proposed contract actions for the acquisition of supplies and services. The contracting officer must submit the synopsis to the Governmentwide Point of Entry that can be accessed on the Internet at <http://www.fedbizopps.gov>. FAR 5.202, “Exceptions,” lists circumstances when the contracting officer does not need to submit a synopsis, such as when a contract action cites an unusual and compelling urgency as the exception to full and open competition. In addition, FAR 5.203, “Publicizing and Response Time,” requires the synopsis to be published for at least 15 days before issuing a solicitation or proposed contract action that the Government intends to solicit and negotiate with only one source under the authority of FAR 6.302. However, the contracting officer may establish a shorter period of issuance for commercial items. FAR 5.207, “Preparation and Transmittal of Synopses,” requires each synopsis submitted to the Governmentwide Point of Entry to include certain data elements as applicable, such as the date of the synopsis, the closing response date, a description, and the point of contact or contracting officer.

FAR Subpart 6.3, “Other Than Full and Open Competition”

FAR subpart 6.3 prescribes the policies and procedures for contracting without full and open competition. Contracting without full and open competition is a violation of statute, such as section 2304, title 10, United States Code, unless permitted by an exception provided in FAR 6.302, “Circumstances Permitting Other Than Full and Open Competition.” FAR 6.302 lists the seven exceptions for contracting without full and open competition:

- FAR 6.302-1, “Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements;”
- FAR 6.302-2, “Unusual and Compelling Urgency;”
- FAR 6.302-3, “Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services;”
- FAR 6.302-4, “International Agreement;”
- FAR 6.302-5, “Authorized or Required by Statute;”
- FAR 6.302-6, “National Security;” and
- FAR 6.302-7, “Public Interest.”

A contracting officer shall not begin negotiations for a sole-source contract without providing full and open competition unless the contracting officer justifies the use of such action in writing, certifies the accuracy and completeness of the justification, and obtains approval of the justification. FAR 6.303-2, “Content,” requires each justification to contain sufficient facts and rationale to justify the use of the authority cited. At a minimum each justification must contain:

- the name of the agency and contracting activity and identification of the document as a “Justification for other than full and open competition;”

- a description of the action being approved;
- a description of the supplies or services required to meet the agency's needs, including the estimated value;
- the statutory authority permitting other than full and open competition;
- a demonstration that the contractor's unique qualifications or the nature of the acquisition requires the use of the authority cited;
- a description of the efforts made to ensure offers are submitted from as many sources as practicable, including whether a notice was or will be publicized;
- the contracting officer's determination that the cost to the Government will be fair and reasonable;
- a description and the results of the market research conducted or, if market research was not conducted, a reason it was not conducted;
- any other facts supporting the use of other than full and open competition;
- a listing of sources that expressed written interest in the acquisition;
- a statement of the actions the agency may take to overcome any barriers to competition before a subsequent acquisition; and
- the contracting officer's certification that the justification is accurate and complete to the best of their knowledge and belief.

FAR 6.304, "Approval of the Justification," identifies the person responsible for approving the J&A based on the value of the proposed contract. The thresholds discussed are the thresholds that were in place during the scope of the audit. The contracting officer approves the J&A for a proposed contract not exceeding \$550,000. The competition advocate approves the J&A for a proposed contract of more than \$550,000 but not exceeding \$11.5 million. A general or flag officer, if a member of the military, or a civilian in a position above GS-15 under the general schedule, approves the J&A for a proposed contract of more than \$11.5 million but not exceeding \$78.5 million. The senior procurement executive of the agency approves the J&A for a proposed contract of more than \$78.5 million.

FAR Part 10, "Market Research"

FAR part 10 prescribes policies and procedures for conducting market research to arrive at the most suitable approach for acquiring, distributing, and supporting supplies and services. Agencies are required to conduct market research appropriate to the circumstance before soliciting offers for acquisitions with an estimated value over the simplified acquisition threshold. Agencies are required to use the results of market research to determine if there are appropriate sources or commercial items capable of satisfying the agency's requirements. The extent of market research the agencies conduct varies, depending on factors such as urgency, estimated dollar value, complexity, and past experience. Agencies use market research techniques, such as contacting knowledgeable individuals in Government and industry, reviewing results of recent market research, publishing formal requests for information, querying databases, participating in on-line communication, obtaining source lists of similar items, and reviewing available product literature. Agencies should document the results of market research in a manner appropriate to the size and complexity of the acquisition.

Appendix C. Noncompetitive Contracts Reviewed

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Product, Service, or R&D	Description at Award	Award Date	Contract Type	Authority Cited	Contract Value¹
1	N00164-10-C-JQ84	Product	18 Target Sight Systems, data, and nonrecurring efforts	4/23/10	FFP	FAR 6.302-1	\$44,414,000
2	N00164-10-D-WM17	Product	The repair, upgrade, and production of high-voltage subassemblies in support of the AN-SLQ-32(V) Electronic Warfare System. Total estimated quantities included 149 repairs, 92 upgrades, and 27 new builds	9/30/10	FFP	FAR 6.302-1	\$7,967,525
3	N00164-09-D-JQ64	Service	Maintenance and repairs of Bradley Eye-safe Laser Rangefinder Laser Resonators and associated data	9/30/09	FFP	FAR 6.302-1	\$5,557,000
4	N00164-09-D-JN11	Product	Test, tear down, evaluate, repair, upgrade, and/or modify the MK49 MOD 0 Remote Operated Small Arms Mounts and/or assemblies/subassemblies	7/22/09	FFP	FAR 6.302-1	\$4,900,000
5	N00164-09-C-WT44	Product	1 ATE for the Universal Radio Frequency Test Facility, 1 ATE for the ALQ-214V System/WRA Verification Test Facility, 1 Interface Adapter for use on the Universal Test Facility System, travel to the subcontractor's facility and to NSWC Crane, and data	5/28/09	FFP	FAR 6.302-1	\$4,262,282
6	N00164-09-D-JN50	Product	.50 Caliber Feed Chutes, adapter, exit end fittings, can ends, and link chutes; Standard Mini-Gun and Link Chutes (4 - 11 feet), gun ends, and ammo box ends; and 7.62 millimeter Feed Chutes (4-11 feet)	9/29/09	FFP	FAR 6.302-1	\$3,000,000

Acronyms and footnotes used throughout Appendix C are defined on the final page of Appendix C.

Appendix C. Noncompetitive Contracts Reviewed (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Product, Service, or R&D	Description at Award	Award Date	Contract Type	Authority Cited	Contract Value ¹
7	N00164-10-C-JT04	Product	Replenishment spares for GBOSS including 120 Transmitters, 110 8-Channel Contact Receivers, and 90 Fiber Optic Modem Transmitters	12/21/09	FFP	FAR 6.302-1 and FAR 6.302-2	\$591,457 ²
8	N00164-10-C-JT05	Product	45 Camera Pan/Tilt Assemblies, 55 Radio Mounts, and 16 Electro Mechanical Pan Tilts, and 24 Elec-Mech Pan/Tile	11/25/09	FFP	FAR 6.302-1 and FAR 6.302-2	\$504,949
9	N00164-10-D-JN69	Product	Clip on Night Vision Device Image Intensification. Minimum of 10 and maximum of 7,500 units	9/28/10	FFP	FAR 6.302-1	\$48,750,000
10	N00164-10-C-GR44	Product	10 Grade A and 15 Grade B Tech Refresh Kits, an INCO Kit, data, an IETM and updates, Operator Computer Based Instruction, and Interactive Electronic Maintenance updates. There were options for Grade A and Grade B Tech Refresh Kits that expire September 30, 2010 (minimum of 5 and maximum of 10 units). There were also options for Grade A and Grade B Tech Refresh Kits that expire September 30, 2011 (minimum quantity of 25 units)	8/19/10	FFP	FAR 6.302-1	\$5,150,045
11	N00164-10-D-JN97	Product	MK49 MOD 0 Remote Operated Small Arms Mount Gun Weapon System. Minimum of 2 and maximum of 24 units	7/16/10	FFP	FAR 6.302-1	\$5,000,000
12	N00164-09-D-WS01	Product	Major and minor repairs of the Band 9/10 Traveling Wave Tube (estimated 131 major and 132 minor repairs), evaluations, and data	10/20/08	FFP	FAR 6.302-1	\$4,000,000
13	N00164-09-C-GS38	Product	370 "C" and 90 "B" cells with commercial trays and source inspection	11/4/08	FFP	FAR 6.302-2	\$1,217,222
14	N00164-09-C-JQ70	Product	60 Magnetic Transmitter Units	12/22/08	FFP	FAR 6.302-1 and FAR 6.302-2	\$839,330

Acronyms and footnotes used throughout Appendix C are defined on the final page of Appendix C.

Appendix C. Noncompetitive Contracts Reviewed (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Product, Service, or R&D	Description at Award	Award Date	Contract Type	Authority Cited	Contract Value¹
15	N00164-09-C-JQ56	Service	Labor in support of Electro-Optics Division Engineering, technical, and management support services	12/19/08	CPFF	FAR 6.302-1	\$11,170,249
16	N00164-10-D-GR49	Product	Evaluation for repair (minimum of 1 and maximum of 30 evaluations), standard repair, and non-standard repair (minimum of 1 and maximum of 30 combined repairs between standard and non-standard) of AN/SPS-48E Rotary Coupler	9/2/10	FFP	FAR 6.302-1	\$650,000
17	N00164-10-C-WT76	Product	40 Transformer Rectifier Units and 5 Fans	4/8/10	FFP	FAR 6.302-1 and FAR 6.302-2	\$618,851
18	N00164-10-D-WM19	Product	Double Optimized Control Cables and data	1/20/10	FFP	FAR 6.302-1	\$591,027
19	N00164-10-D-WT71	Product	Spares and repairs of the HC/KC/C-130J smoke detectors and fire extinguishers	4/9/10	FFP	FAR 6.302-1	\$501,085
20	N00164-10-C-JT11	Product	10 Stiletto masts with mast control	11/17/09	FFP	FAR 6.302-1 and FAR 6.302-2	\$367,740
21	N00164-10-C-WM22	Product	Goldengate Design Software, license, and 12 months of upgrade and support	12/23/09	FFP	FAR 6.302-1	\$268,993
22	N00164-10-C-GR87	Product	2 High Voltage Power Supply, Traveling Wave Tube Grid Modulators and an option for 2 additional units	8/25/10	FFP	FAR 6.302-1	\$168,800
23	N00164-10-D-WM15	Service	Non-personal Technical and Engineering Services, travel, and other direct costs	7/9/10	CPFF and Cost	FAR 6.302-1	\$10,938,752
24	N00164-09-C-WQ19	Product and Service	20 Field Service Representatives for 1 year with 3 option years, in-theater transportation, and support equipment	2/18/09	FFP and Cost	FAR 6.302-1	\$8,867,370

Acronyms and footnotes used throughout Appendix C are defined on the final page of Appendix C.

Appendix C. Noncompetitive Contracts Reviewed (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Product, Service, or R&D	Description at Award	Award Date	Contract Type	Authority Cited	Contract Value ¹
25	N00164-09-D-GS16	R&D	R&D related to the design and build of Missile Defense Agency-specific batteries	11/13/08	Cost	FAR 6.302-1	\$6,000,000
26	N00164-10-D-JS16	Service	Laser Range Finder repairs, material lay in, and data deliverables. Estimated quantities are 12 minor repairs, 30 intermediate repairs, and 87 major repairs, for a total estimated quantity of 129 repairs.	11/12/09	FFP	FAR 6.302-1	\$2,395,625
27	N00164-10-D-WS26	Product	Low Noise Amplifiers, minimum of 10 and maximum of 170 units	7/26/10	FFP	FAR 6.302-1	\$341,520

¹The contract value is the base award value or the maximum ceiling price at award excluding options.

²This contract was awarded for \$591,457 and the first modification changed the contract value to \$559 to pay the contractor for shipping costs. After award, it was determined that the procurement of a prior configuration of the GBOSS did not meet the current requirement, so the modification was issued to cancel the order.

ATE	Automated Test Equipment
CPFF	Cost-Plus-Fixed-Fee
FAR 6.302-1	Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements
FAR 6.302-2	Unusual and Compelling Urgency
FFP	Firm-Fixed-Price
GBOSS	Ground Based Operational Surveillance System
IETM	Interactive Electronic Technical Manual
INCO	Installation and Check-Out
NSWC	Naval Surface Warfare Center
R&D	Research and Development
WRA	Weapons Replaceable Assembly

Appendix D. Market Research Conducted

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Estimated Value on the Justification and Approval	Specific Steps Performed	Results of Market Research or Justification for Not Conducting Market Research	Examples of Supporting Documentation ¹	Market Research Considered Adequate
1	N00164-10-C-JQ84	\$291,000,000 for the class \$54,300,000 for this procurement at base award	A detailed market survey of available devices was completed by the Requiring Technical Activity. Prior contract history was reviewed.	There were no commercial applications for the Target Sight System. No other sources were capable of satisfying the Government's requirement. The contractor was unwilling to sell the unlimited data rights.	J&A and an acquisition checklist	Yes
2	N00164-10-D-WM17	\$7,150,099 An addendum increased the value prior to award to \$9,931,350	Internet searches of websites, such as Google and the Thomas Registry, were conducted. Potential sources were contacted. Prior history was reviewed.	Several websites were searched, but potential vendors did not have similar products that would meet the requirements. Potential vendors were contacted but none responded. Data rights were not for sale.	J&A, acquisition checklists, and a market research questionnaire	Yes
3	N00164-09-D-JQ64	\$5,750,000	Internet searches of Google, Fedworld, and competitors' websites were conducted. Potential sources were surveyed. Prior contract history was reviewed.	The contractor was the only vendor contacted and was unwilling to sell the rights. Three companies were surveyed, and none had the capability to produce, repair, or refurbish the laser resonator.	J&A and acquisition checklists	Yes
4	N00164-09-D-JN11	\$4,900,000	Internet searches were conducted of competitors' websites. Potential sources were contacted regarding the gun weapon system. The contractor was contacted. Prior history was reviewed.	Potential sources contacted were not capable of supporting the repairs of the item. The contractor confirmed this as a commercial item. The contractor owns the data rights and drawings and was unwilling to sell the data.	J&A and acquisition checklists	Yes
5	N00164-09-C-WT44	\$6,500,000	Internet searches were conducted on a parts research website. Prior history was reviewed. The Requiring Technical Activity had discussions with the contractor.	The OEM owns the proprietary data rights for the source code needed to run the Automated Test Equipment. Funding is not available to procure the design and computer code rights to develop a test unit independently. The OEM is not willing to sell or license their rights, or to sell the Government the drawing package.	Acquisition checklists	Yes

Acronyms and footnotes used throughout Appendix D are defined on the final page of Appendix D.

Appendix D. Market Research Conducted (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Estimated Value on the Justification and Approval	Specific Steps Performed	Results of Market Research or Justification for Not Conducting Market Research	Examples of Supporting Documentation ¹	Market Research Considered Adequate
6	N00164-09-D-JN50	\$11,500,000	Machine Gun Feed Chutes were searched using Yahoo. Previous synopsis results and prior history were reviewed. Industry and Navy personnel were contacted to determine market capabilities.	The Government had unsuccessfully attempted to establish a second source. Only the current contractor expressed interest in the requirements for previous procurements. The procurement is for a commercial item. The contractor owns the data rights and is unwilling to sell the rights.	J&A and acquisition checklists	Yes
7	N00164-10-C-JT04	\$9,000,000 for the class \$591,457 for this procurement at base award	Internet searches were conducted using Yahoo, GSA Advantage, and competitor websites.	Additional commercial vendors were identified; however, the OEM is the only company who can meet the requirements. The OEM's item is the only known direct replacement part for the fielded systems. The Government does not own the technical data needed to modify the existing systems.	Acquisition checklists	Yes
8	N00164-10-C-JT05	\$9,000,000 for the class \$504,949 for this procurement at base award	Internet searches were conducted using Government and potential vendor sites. A telephone conversation was held with a sales manager. Contacted industry and Government experts.	The contractor does not have a current GSA pricing schedule. Unable to determine if similar items were qualified for the fielded GBOSS as direct field replacements, since the systems are needed for an immediate mission-essential requirement in theater. The items are considered commercial. The Government does not own the technical data required to modify the existing systems.	J&A and acquisition checklists	Yes
9	N00164-10-D-JN69	\$48,750,000	Internet searches were performed using industry, competitors, and the contractor's websites.	The items being procured are commercially available. Four models were identified with useful attributes; however, other models do not meet Special Operations' requirements. The contractor owns all product rights and is the only manufacturer of the AN/PVS-24.	J&A and an acquisition checklist	Yes

Acronyms and footnotes used throughout Appendix D are defined on the final page of Appendix D.

Appendix D. Market Research Conducted (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Estimated Value on the Justification and Approval	Specific Steps Performed	Results of Market Research or Justification for Not Conducting Market Research	Examples of Supporting Documentation ¹	Market Research Considered Adequate
10	N00164-10-C-GR44	\$8,000,000	Four companies showed interest and were contacted. A contracting strategy meeting was held.	Contracting personnel determined that a competitive environment might exist; however, the items were needed before a competitive acquisition could be completed. The software is proprietary to the OEM. The Government does not own the software rights or source control drawings needed to compete the procurement, and the contractor is unwilling to sell them.	An acquisition checklist, a contracting strategy document, and e-mails	Yes
11	N00164-10-D-JN97	\$5,000,000	The contractor was contacted. Prior history was reviewed.	Similar products were identified; however, only the MK49 MOD 0 ROSAM can interface with all needed systems. The OEM owns the data rights and drawings and is not willing to sell or license the rights.	J&A and acquisition checklists	Yes
12	N00164-09-D-WS01	\$4,000,000	Various site visits were conducted. Internet searches of websites, such as Google and a parts research site, were conducted. The contractor was contacted regarding market capabilities to meet the requirement. Prior history and a prior synopsis were reviewed.	The contractor is the only company capable of repairing the Traveling Wave Tubes. Previous attempts from other contractors have been unsuccessful. Substantial duplication costs would occur if the procurement was competed. The OEM owns the specifications and drawings.	J&A and acquisition checklists	Yes
13	N00164-09-C-GS38	\$2,500,000	Market research was not conducted.	The total time to build and replace a battery with an alternate source would cause an eight month delay at a total cost of \$4,100,000 per submarine.	J&A	Yes ²
14	N00164-09-C-JQ70	\$858,000	Program research on Defense websites and a Google internet search for "Magnetic Transmitter Unit" was conducted. One contractor was contacted.	Only one manufacturer is capable of manufacturing this part. The technical data associated with this system is proprietary.	J&A and acquisition checklist	Yes

Acronyms and footnotes used throughout Appendix D are defined on the final page of Appendix D.

Appendix D. Market Research Conducted (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Estimated Value on the Justification and Approval	Specific Steps Performed	Results of Market Research or Justification for Not Conducting Market Research	Examples of Supporting Documentation¹	Market Research Considered Adequate
15	N00164-09-C-JQ56	\$11,254,000	The specific steps taken to conduct market research, if any, were not documented.	The results of market research, if performed, were not documented.	None	No
16	N00164-10-D-GR49	\$2,256,195	Internet searches were conducted using Google. Potential sources were contacted. Prior contract history was reviewed.	In total, four potential sources were contacted in regards to market capabilities. Two contractors provided quotes; however, only one could meet the requirements. The Government does not own the proprietary rights for the manufacture and repair of the SPS-48 rotary couplers.	J&A and an acquisition checklist	Yes
17	N00164-10-C-WT76	\$618,851	The contractor was contacted. Government estimates and prior history of similar items were reviewed.	The Government estimated reverse engineering would require 14 months and up to 4 months for certification for this equipment to be ready for install. The items are commercially available. The OEM was unwilling to sell the data rights.	J&A and acquisition checklists	Yes
18	N00164-10-D-WM19	\$591,026	Internet searches were performed using Google. Contracting personnel reviewed additional sources and prior history. Three industry experts were contacted regarding market capabilities.	A manufacturer and its distributor both stated they had proprietary rights. Neither would sell the rights. A third source was willing to provide a quote; however, the contractor is the only approved manufacturer of the cable assembly.	Market research questionnaires and acquisition checklists	Yes
19	N00164-10-D-WT71	\$749,035	Internet searches of several websites, such as Google and industry sites, were conducted. The OEM was contacted. Prior history was reviewed.	The OEM manufactures and repairs various Aircraft Smoke Detectors and Aircraft Fire Extinguishing equipment for several Government and commercial customers. The OEM is the only source that can meet the requirements. The data rights are proprietary to the OEM and are not for sale.	J&A and acquisition checklists	Yes

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Appendix D. Market Research Conducted (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Estimated Value on the Justification and Approval	Specific Steps Performed	Results of Market Research or Justification for Not Conducting Market Research	Examples of Supporting Documentation¹	Market Research Considered Adequate
20	N00164-10-C-JT11	\$9,000,000 for class \$367,740 for this procurement at base award	Market research was not conducted.	The time delay and the \$1,800,000 in associated reverse engineering costs were not acceptable considering the compelling need for these systems. The items were considered commercial. The Government did not own the data required to modify the existing system.	J&A	Yes ²
21	N00164-10-C-WM22	\$340,000	The contractor's website was queried. Contacted industry and Government experts.	The toolset was considered commercially available. The Government did not possess the TDP to allow for full and open competition. The toolset, available only from the contractor, was needed to verify equipment met Integrated Topside Chipset requirements.	An acquisition checklist	Yes
22	N00164-10-C-GR87	\$336,000	Potential vendors were contacted. Prior contract history was reviewed.	If an alternate source was used, additional time, testing, and parts would cause substantial duplication of costs and delays to the program. The item is considered commercially available. The design is proprietary to the contractor, and the contractor is not willing to sell the data rights to the Government or any other party.	J&A and acquisition checklists	Yes
23	N00164-10-D-WM15	\$11,490,000	Internet searches of numerous websites, such as Google, wspnet.com, and wired.com, were conducted. The contractor was contacted. Prior history was reviewed.	The contractor was the only company capable of providing support for all the systems involved. Two to four years would be needed to duplicate the knowledge and expertise of the contractor, and start-up and training costs for a new contractor was estimated at \$4,831,156.	J&A and acquisition checklists	Yes
24	N00164-09-C-WQ19	\$40,445,000	The contractor was contacted. Prior history was reviewed.	An alternative source would require \$2,000,000 and 3 years to train personnel in the required competencies. The contractor owns the data rights and drawings.	J&A and acquisition checklists	Yes

Acronyms and footnotes used throughout Appendix D are defined on the final page of Appendix D.

Appendix D. Market Research Conducted (con't)

Noncompetitive Contracts Awarded by NSWC Crane Contracting Division From FY 2009-FY 2010

	Contract Number	Estimated Value on the Justification and Approval	Specific Steps Performed	Results of Market Research or Justification for Not Conducting Market Research	Examples of Supporting Documentation ¹	Market Research Considered Adequate
25	N00164-09-D-GS16	\$6,000,000	Internet Searches were conducted. Industry and Government experts were contacted. Prior contract history was reviewed.	No commercial items will meet the Government needs. Searches confirmed the sole-source nature of the procurement. The contractor owns and is unwilling to sell the data rights.	Acquisition checklists	Yes
26	N00164-10-D-JS16	\$2,683,693	Internet searches of websites, such as Google, Techexpo.com, and firstgov.gov, were conducted. Potential sources were contacted. Prior contract history was reviewed.	Potential contractors were contacted; however, the contractor is the only source that can meet the requirements. The contractor owns the engineering and technical drawings and specifications, and the contractor is unwilling to sell the TDP.	J&A and acquisition checklists	Yes
27	N00164-10-D-WS26	\$354,410	Internet searches of websites, such as Google, the contractor's site, and competitors' sites, were conducted. Potential sources were contacted. Prior contract history was reviewed.	The contractor was the only company suitable for the effort. Three companies were identified as potential sources. One contractor was unable to meet the requirements. Another contractor requested additional information, which was provided but did not respond, and the third contractor did not respond. The Government does not own the TDP to allow full and open competition, and the contractor was not willing to sell or license it.	J&A and acquisition checklists	Yes

¹Acquisition checklists may have included the market research forms and procurement checklists completed by technical and contracting personnel.

²Although market research was not conducted, the rationale provided for not conducting research was considered appropriate.

GBOSS Ground Based Operational Surveillance System
GSA General Services Administration
J&A Justification and Approval
NSWC Naval Surface Warfare Center

OEM Original Equipment Manufacturer
ROSAM Remote Operated Small Arms Mount
TDP Technical Data Package



Inspector General Department of Defense

